

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,863

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her application for Medicaid. The issue is whether the petitioner is disabled within the meaning of the pertinent regulations.

FINDINGS OF FACT

1. The petitioner is a twenty-nine-year-old woman who has a ninth grade education. She is able to read and write. She has worked in the past as a chambermaid and last worked at that job on June 16, 1995. On that date she fell five feet from a chair while hanging curtains and injured the muscles in her back.
2. The petitioner was found to have strained a muscle in her back but was expected to return to work in one month. She was treated with drugs and physical therapy and restricted with regard to heavy lifting (more than twenty five pounds) or working around dusts, gases or fumes due to her asthma. Her physician believes that she can return to work with limitations with regard to lifting.
3. The petitioner says that she cannot return to work because right leg is still paralyzed and because she cannot lift chairs or shovel snow. However, she continues to do her own housework, to drive and to care for her seven pets. She walks a mile each day but cannot stand in one place for more than twenty minutes. She has trouble sleeping at night due to discomfort.
4. The credible evidence shows that the petitioner cannot return to her former job as a chambermaid because it requires occasional lifting of objects heavier than twenty-five pounds. However, the petitioner has at least the ability to do sedentary work and probably could do light work as well.

ORDER

The Department's decision is affirmed.

REASONS

Medicaid Manual Section M211.2 defines disability as follows:

Disability is the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, or combination of impairments, which can be expected to result in death or has lasted or can be expected to last for a continuous period of not fewer than twelve (12) months. To meet this definition, the applicant must have a severe impairment, which makes him/her unable to do his/her previous work or any other substantial gainful activity which exists in the national economy. To determine whether the client is able to do any other work, the client's residual functional capacity, age, education, and work experience is considered.

The petitioner cannot return to her prior job but has the residual functional capacity to perform at least sedentary work. Under the medical-vocational guidelines, a twenty-nine year old person (defined as a "younger individual") who has little or no education and is able to do only sedentary work, is categorized as not disabled. 20 C.F.R. § 404, Subpart P, Appendix II, Rules 202.16-202.19. The petitioner's youth is a significant factor in her ability to obtain and accommodate to a new job situation which might have less strenuous physical requirements. Therefore, she cannot be determined to be disabled from all employment.

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